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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/631,937	07/31/2003	Mark J. Levine	930009-2011	9678

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EXAMINER	
LONEY, DONALD J	

ART UNIT	PAPER NUMBER
1772	

MAIL DATE	DELIVERY MODE
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/631,937	LEVINE ET AL.	
	Examiner	Art Unit	
	Donald Loney	1772	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *01 June 2007*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-13 and 15-23* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-13 and 15-23* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2. The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

3. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

4. Claims 1-13, 15 and 18-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over either MacBean or Fleischer et al in view of Tate et al (5558926).

MacBean (3523867) or Fleischer (5422166) teach belt containing a fabric containing a guide material, running in the machine direction, at the ends of the belt that completely encapsulated the fabric. Refer to fabric 15, 17, 21 and guides 23 in figures 1, 3 and 4 in MacBean along with column1, lines 29-63 and column 2, lines 5-20. Refer to fabric 10, 12, 14 and guides 16 or 18 in figures 1, 4 and 5 of Fleischer along with the Summary of the Invention and column 3, line 27 through column 4, line 57. The references do fail to teach the guides being V-shaped per claim 1, and the additional layer on the other side of the fabric per claims 18-21.

Tate discloses that guides 8 on fabric belts can be V-shaped. Tate also discloses the additional layer 7 on the other side of the fabric belt. See figure 3. Tate teaches the additional layer 7 encapsulates at least 85% of the fabric in order to form a good bond (see column 4, lines 40-53).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to the primary references to form the guides V-shaped motivated by the fact Tate et al discloses them as V-shaped in order to run in corresponding grooves on a roller when used and to encapsulate at least 50% of the fabric therewith since this would a stronger bond with the fabric. The additional layer would also be obvious as taught by Tate et al to provide to the other side with a known coating.

5. Claims 1-13 and 15-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Reilly et al (4008801).

Reilly et al discloses a fabric 18 containing guides 20 formed on both edges of a belt. The guides are V-shaped ribs 31 per claim 1. Another layer is located on the other side of the fabric per claims 18-21. Refer to figures 1, 2 and 2a. The guide is discloses as molded into the interstices of the fabric (column 3, lines 35-42) in order to securely and positively attach it thereto. The examiner deems the material flowing into the interstices as encapsulating the fabric caliper as recited by the applicant. Reilly et al is silent as to the depth of the encapsulation. The applicant recites at least 50% in claim 1.

However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to Reilly et al to encapsulate at least 50% of the fabric motivated by the fact the prior art teaches it is known to encapsulate the fabric in order to securely and positively attach it thereto and the deeper into the fabric the material flows the greater that bond that would be since the material would be able to attach to more of the fabric.

6. Claims 22 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over either MacBean or Fleischer et al in view of Tate et al (5558926) as applied to claims 1-13, 15 and 18-21 above, and further in view of GB 2106557.

The combination of the primary references teaches the invention substantially as recited except for the stuffers used to control the degree of penetration of the coating. See the 35 U.S.C. 103 rejection above.

GB 2106557 discloses it is known to include stuff yarns 21 in a belt fabric in order to control the degree of penetration of a coating into the fabric. See page 3, lines 72-84.

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to the combination of the primary references to include stuff yarns in the fabric thereof, as is taught to be known by GB 2106557, in order to control the degree of penetration of the coating motivated by the fact GB 2106557 discloses this is known in the art of belt coating.

7. Claims 22 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Reilly et al as applied to claims 1-13 and 15-21 above, and further in view of GB 2106557.

The primary reference teaches the invention substantially as recited except for the stuffers used to control the degree of penetration of the coating. See the 35 U.S.C. 103 rejection above.

GB 2106557 discloses it is known to include stuff yarns 21 in a belt fabric in order to control the degree of penetration of a coating into the fabric. See page 3, lines 72-84.

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to Reilly et al to include stuff yarns in the fabric thereof, as is taught to be known by GB 2106557, in order to control the degree of penetration of the coating motivated by the fact GB 2106557 discloses this is known in the art of belt coating.

Response to Arguments

8. Applicant's arguments filed June 1, 2007 have been fully considered but they are not persuasive. The applicant argues that the V guide of Tate et al could only encapsulate at most 15% of the fabric since layer 7 encapsulates at least 85% of the fabric. However, the examiner has relied upon teaching in Tate et al of a V-shape for the guide and that the more fabric you encapsulate the better the bonding properties thereof as applied to layer 7 would also be applicable to guide 8 for increased adhesion with the fabric. The recitation as to the guide being on the wear surface is relative and drawn to intended use. One could turn the belt inside out and it would read on the structure as recited in the claims since the guide recitation contains no positive structural features that distinguish from the prior art containing a material which encapsulates at least 50% of the fabric. The applicant argues that MacBean and Fleisher teaches abrasion resistant strips and not guides as recited in the instant claims, however, any material located at the edge position of the fabric can be considered a guide. The secondary reference to Tate et al shows that material along the edge of a fabric (i.e.guides) are known to be V-shaped. The applicant argues that the fabric in Reiley is not the fabric of the belt, but an additional fabric used to assemble the belt. However, it is at least part thereof and reads upon the instant claims in that at least 50% of a fabric is encapsulated with a material. Note the applicant does not recite a belt, just a fabric. Additionally, the base 31 and guide rib 30 are integral and can be considered in

their entirety a guide material which encapsulates the fabric, which is at least part of the belt.

Conclusion

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Donald Loney whose telephone number is (571) 272-1493. The examiner can normally be reached on Mon, Tues, Thurs and Fri. 8AM-4PM, flex schedule.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rena Dye can be reached on 571 272-3186. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Donald J. Loney/
Primary Examiner
Art Unit 1772

DJL:D.Loney
09/03/07